

The opinion in support of the decision being entered today was *not* written for publication in a law journal and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LINCOLN RODON

Appeal 2006-3154
Application 09/865,799
Technology Center 3600

Decided: March 12, 2007

Before MURRIEL E. CRAWFORD, ANITA PELLMAN GROSS, and LINDA E. HORNER, *Administrative Patent Judges*.

GROSS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Rodon (Appellant) appeals under 35 U.S.C. § 134 from the Examiner's final rejection of claims 6 through 11. Claims 1 through 5 have been withdrawn from consideration.

Appellant's invention relates to a method to assist in the selection of travel itineraries. Claim 6 is illustrative of the claimed invention, and it reads as follows:

6. A method for facilitating selection of travel itineraries, comprising:

selecting one or more travel criteria;

allowing a traveler to define traveler preferences associated with said travel criteria and storing said traveler preferences in a traveler profile;

deriving preference factors including a lowest fare multiplier, an available dates index, a non-stop service index, and an equipment type index for said travel criteria based on said traveler preferences;

initiating a query of at least one travel information database for itineraries matching said selected travel criteria using an on-line search engine;

calculating a travel value index for each itinerary using a travel value algorithm that subtracts preference factors from, or adds preference factors to, or both, a fixed optimal value of said travel value index depending on said criteria matching itineraries; and

returning only itineraries where said travel value index thereof satisfies a traveler defined travel value index threshold.

The prior art references of record relied upon by the Examiner in rejecting the appealed claims are:

Ahlstrom	US 4,862,357	Aug. 29, 1989
Bunyan	EP 1 076 307 A2	Feb. 14, 2001

Claims 6 through 11 stand rejected under 35 U.S.C. § 103 as being unpatentable over Ahlstrom in view of Bunyan.

We refer to the Examiner's Answer (mailed April 18, 2006) and to Appellant's Brief (filed February 1, 2006) for the respective arguments.

SUMMARY OF DECISION

As a consequence of our review, we will reverse the obviousness rejection of claims 6 through 11.

OPINION

Appellant contends (Br. 9) that neither Ahlstrom nor Bunyan discloses 1) an equipment type preference factor, 2) a fixed optimal value, and 3) a threshold value being an index value of the travel value index. The Examiner asserts (Answer 4 and 9) that Ahlstrom discloses a preference factor for an equipment type index in col. 11, ll. 44-46, (Answer 4 and 7-8) that Bunyan discloses both a fixed optimal value of the travel value index and also a threshold value for the travel value index in col. 4, ll. 39-54. The issue, therefore, is whether the combination of Ahlstrom and Bunyan discloses an equipment type preference factor, a fixed optimal value, and a threshold value for the travel value index.

Ahlstrom (col. 11, ll. 44-46) discloses a particular airline preference factor. Appellant (Specification 12: 10-11) indicates that "equipment type" refers to the type of aircraft such as a "747 jumbo jet versus a supersonic jet versus a propeller-driven airplane." Each airline may or may not have the various types of equipment, but specifying a particular airline preference is not the same as specifying an equipment type preference. None of the other factors considered in Ahlstrom relate to equipment type. Further, Bunyan does not discuss equipment type. Accordingly, neither reference discloses

an equipment type preference factor. Thus the combination of the two references fails to disclose an equipment type preference factor.

The Examiner admits (Answer 4), and we agree, that Ahlstrom does not disclose a fixed optimal value of the travel index. Bunyan (col. 4, ll. 39-54) discloses expressing a suitability rating of a particular holiday (or vacation) as a percentage on a scale of 0% (totally unsuitable) to 100% (totally suitable). The Examiner asserts (Answer 7) that a value of 100% is the optimal value. However, Bunyan discloses (col. 3, l. 59-col. 4, l. 4) that "[i]f a customer has specified a positive or negative preference for a regional location, a weighting based on their strength of opinion is added to the overall suitability of the holiday." Thus, arguably preference factors are added or subtracted from an "overall suitability." The overall suitability would then correspond to the fixed optimal value of claim 6. However, Bunyan discloses (col. 4, ll. 39-42) that the suitability rating may be normalized to a scale of 0 to 100% to simplify the format for presentation to the customer. The preference factors are not added to or subtracted from the normalized rating. Therefore, the 100% suitability rating does not satisfy the claimed fixed optimal value to and from which preference factors are added and subtracted, respectively. Thus, as neither Ahlstrom nor Bunyan discloses or suggests a fixed optimal value, the combination of the two references cannot disclose or suggest the fixed optimal value.

The Examiner admits (Answer 4), and we agree, that Ahlstrom fails to teach a threshold value that the travel index must surpass to be presented to the user. The portion of Bunyan relied upon by the Examiner for the claimed threshold value states (col. 4, ll. 49-52) that "[i]f there are more than a specified number of suitable holidays, the customer is able to sort or filter

the holidays using a set of criteria including destination area and price." Thus, Bunyan shows a certain number of itineraries, not all itineraries with a suitability rating (Bunyan's equivalent for a travel index) greater than or equal to a particular value. We find nothing in Bunyan that would suggest showing only those itineraries with a given rating or higher. Since neither Ahlstrom nor Bunyan suggests a travel value index threshold, the combination cannot disclose the claimed travel value index threshold.

Since the combination of Ahlstrom and Bunyan fails to teach or suggest three elements recited in independent claim 6, the Examiner has failed to establish a *prima facie* case of obviousness for claim 6 and its dependents, claims 7 through 11. Appellant further contends (Br. 12-13) that there is no suggestion or motivation to combine Ahlstrom and Bunyan and that there was no reasonable expectation of success, but we need not reach these arguments since the combination lacks several elements of the claims.

Appeal 2006-3154
Application 09/865,799

ORDER

The decision of the Examiner rejecting claims 6 through 11 under 35 U.S.C. § 103 is reversed.

REVERSED

hh

BAKER & MCKENZIE LLP
Pennzoil Place, South Tower
711 Louisiana, Suite 3400
HOUSTON, TX 77002-2716